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SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY
NOTIFICATION

The 22nd March, 2023

No.2220/L.A.— The following Bill, which has been introduced in the Odisha Legislative Assembly on the 22nd March, 2023 is here with published under rule-68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information

**The Right to Fair Compensation and Transparency
in Land Acquisition, Rehabilitation and Resettlement
(Odisha Amendment) Bill, 2023.**

A
BILL

*To amend the Right to Fair Compensation and Transparency
in Land Acquisition, Rehabilitation and Resettlement Act, 2013,
in its application to the State of Odisha.*

Be it enacted by the Legislature of the State of Odisha in the
Seventy-fourth Year of the Republic of India as follows:—

Short title

1. This Act may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Odisha Amendment) Act, 2023.

*Amendment
of Section 2*

2. In Section 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred to as "the principal Act"), in sub-section (2), after the second proviso, the following proviso shall be inserted, namely :—

30 of
2013

"Provided also that the acquisition of land for the projects listed in section 10A and the purposes specified therein, shall be exempted from the provisions of the first proviso to this sub-section."

*Insertion of
a new
Chapter III
A.*

3. In the principal Act, after the Chapter-III, the following Chapter shall be inserted, namely:—

“CHAPTER III A

Provisions of Chapter-II and Chapter III not to apply to certain projects.

*Power of the
State
Government
to exempt
certain
projects.*

10-A. The State Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely :—

- (a) Such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;
- (b) infrastructure projects including educational institutions, health infrastructure, Government or Local Self Government offices, electrification, irrigation projects and drinking water projects;
- (c) affordable housing and housing for the poor people;
- (d) industrial corridors set up by the State Government and its undertakings (in which case the land shall be acquired up to one kilometer on both sides of designated railway line or roads for such industrial corridor);
- (e) infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government;
- (f) all linear projects including State Highways, National Highways and Railways; and
- (g) industrial projects involving displacement of 100 families or less, or acquisition of private land of 500 acres or less:

Provided that the State Government shall, before issue of the notification, ensure that the extent of land for the proposed

acquisition keeping in view the bare minimum land required for such project.”.

*Amendment
of
Section 14*

4. In the principal Act, in Section 14, after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that in computing the period mentioned in this section, any period or periods during which the proceeding for acquisition of the land were held up, on account of any stay or injunction order issued by any Court, or in the event of occurrence of any calamity or any other such situation, such period as may be notified by the State Government, shall be excluded.”.

*Amendment
of
Section 19.*

5. In the principal Act, in Section 19, in sub-section (7), for the first proviso, the following proviso shall be substituted, namely :—

“Provided that in computing the period mentioned in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up, on account of any stay or injunction order issued by any Court or in the event of occurrence of any calamity or any other such situation, such period as may be notified by the State Government, shall be excluded : ”.

*Amendment
of
Section 24.*

6. In the principal Act, in Section 24, in sub-section (2), after the existing proviso, the following proviso shall be inserted, namely:—

“ Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up, on account of any stay or injunction order issued by any Court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a Court or in any designated account maintained for this purpose, shall be excluded.”.

*Amendment
of
Section 25.*

7. In the principal Act, in Section 25, after the existing provisos, the following proviso shall be inserted, namely :—

“ Provided also that in computing the period mentioned in this section, any period or periods during which the proceeding for acquisition of the land were held up, on account of any stay or injunction order issued by any Court, or in the event

of occurrence of any calamity or any other such situation, such period as may be notified by the State Government, shall be excluded.”.

*Insertion of
a new
Section 33-A.*

8. In the principal Act, after Section 33, the following new section shall be inserted, namely:—

33-A. Notwithstanding anything contained in any other law, the Authority in a reference under section 64 or High Court in appeal under section 74, or any other Authority find that the money has been wrongfully paid to any person under this Act, the State Government or the Collector or any officer authorized in this behalf, shall recover the same as arrears of land revenue.”.

*Amendment
of
Section 46.*

9. In the principal Act, in Section 46,-

- (a) in the marginal heading, the words “other than specified persons” shall be omitted;
- (b) in sub-section (1), the words “ other than a specified person ” shall be omitted;
- (c) in sub-section (5), the words “other than specified persons” shall be omitted; and
- (d) in sub-section (6), in the Explanation, clause (b) shall be omitted.

*Amendment
of Section
87.*

10. In the principal Act, for Section 87 including the marginal heading, the following section shall be substituted, namely:—

*“Offences
by
Government
officials*

87. Where any offence under this Act has been committed by any person who is or was employed in the Central Government or as the case may be, in the State Government at the time of commission of such alleged offence, the Court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 is followed.”.

STATEMENT OF OBJECTS AND REASONS

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCLAR&R) Act, 2013 (Act 30 of 2013) is a central legislation relating to land acquisition for public purposes with provisions for determining compensation, rehabilitation and resettlement measures, which came into force with effect from 1st January, 2014. The Land Acquisition Act, 1894 was repealed by this Act. Certain provisions of the RFCLAR&R Act, 2013 such as the mandatory provision of Social Impact Assessment (SIA) Study, Special provision for food security and provision of lapsing of the SIA Study report under section 14, provision of rescinding under sub-section (7) of Section 19, provision of lapsing under section sub-section (2) of Section 24 and Section 25 are found to be causing delay in acquisition of land.

2. The Government of Odisha through Make-In-Odisha initiatives intend to attract private investments in mega projects across the sectors to fast track the process of development of the State. It is needless to mention that providing hassle free land to the project proponent is one of the basic requirements for industrial and infrastructure developments and acquisition of private land under the RFCLAR&R Act, 2013 has been a major challenge for the State Government. Therefore, in order to broad base the Industrial ecosystem for faster industrial promotion for employment generation and all-round economic development of the State, a Task Force was constituted under the chairmanship of Additional Chief Secretary, Revenue & DM Department to suggest necessary changes in existing Land Laws & procedures for facilitating smooth transfer of land for the Industrial projects. The Task Force has recommended for amendment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in its applicability to the State of Odisha.

3. Government of India had promulgated successive Ordinances and the last such Ordinance promulgated called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Ordinance, 2015 with retrospective effect from 31st December, 2014, *inter alia*, inserted a new provision as Section 10-A empowering the Appropriate Government to exempt certain projects from application of Chapter-II (Determination of Social Impact and Public Purpose) and Chapter-III (Special Provisions to safeguard Food Security) of the RFCTLAR&R Act, 2013. The said Ordinance has lapsed due to some reasons.

4. The State Governments of Gujarat in the year 2016, The State of Maharashtra in the year 2018 and the State of Karnataka in the year 2019 have made certain amendments to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLAR&R) Act, 2013 (Act 30 of 2013) in its applicability to their respective States. It may be mentioned that all three State Amendments as referred to above have received the assent of the President as required under clause(2) of Article 254 of the Constitution of India.

5. Keeping in view the recommendation of the Task Force, it is considered expedient and it is felt necessary to amend the RFCTLAR&R Act, 2013 in its application to the State of Odisha and accordingly it is proposed to amend the said RFCTLAR & R Act, 2013 to expedite the handing over of hassle free land to different Project Proponents.

(h) In order to expedite the process of land acquisition for strategic and development activities, **it is proposed** for exemption of such projects as detailed in Section 10 A, from “Social Impact Assessment” and ‘Special provisions for safeguarding Food Security” and the provisions of the first proviso to the sub-section (2) of Section 2 dealing with “Consent” as well.

(a) A proviso will be suitably inserted after the second proviso to sub-section (2) of Section 2 so that consent of the acquisition of the land, for the projects listed in the proposed Section 10-A, will not be required for the purpose of the first proviso only. But the said consent will be required in the Scheduled Areas as under the third proviso no land shall be transferred by way of acquisition in that Areas in contravention of any Law relating to land prevailing therein.

(b) A new Chapter after Chapter-III will be inserted in the RFCLAR&R Act, 2013 with Section 10A providing a provision for exempting certain projects such as project vital to National Security or Defence of India etc.; public infrastructure like educational institution, health, electrification, irrigation project, drinking water project, Govt. and local-self Government offices, affordable housing for poor people, industrial corridor set up by State Government and its undertaking; infrastructure projects, all linear project including State Highway, National Highway, Railway; and industrial project displacing family less than 100 families or acquisition of private land of less than 500 Acres from the applicability of the provisions contained in Chapter II and Chapter III of the RFCLAR&R Act, 2013.

(i) At present, in the principal Act, there is provision of lapsing of the report of the SIA Study under section 14, provision of rescinding the preliminary notification under section 19(7), provision of lapsing of the entire process of land acquisition under section 24(2) and Section 25 due to delay. These provisions of lapsing will further delay the process of land acquisition. Besides, sometimes the delay might have been caused due to situations beyond the control of the executing agencies. Hence, it is proposed to discount the periods lapsed for reasons beyond the control. Where on account of stay or injunction order of any court or

due to occurrence of any calamity or any other such situation as declared by the State Government, exclude such period for computing the period of lapsing of Social Impact Assessment Report mentioned in Section 14; the period of recession of preliminary notification mentioned in sub-section (7) of section 19 and lapsing of acquisition proceeding mentioned in Section 25 by suitably amending the aforesaid sections of the RFCTLAR&R Act, 2013. Further in case of land acquisition process under the Land Acquisition Act, 1894 so initiated and the award was passed, but neither the possession of the land was taken nor compensation was paid, the provision of lapsing of such proceeding after five years of passing of award provided in Section 24(2) shall be suitably amended to the effect that the period during which the proceeding for acquisition of land were held up due to any stay or injunction order issued by any court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken, but the compensation lying deposited in a court or any account maintained for the purpose shall be excluded for the purpose of calculation of period of five years.

- (j) To enable the State Government to recover the amount which was wrongfully paid to any person under the RFCTLAR&R Act, 2013 by suitably amending the said Act by way of inserting a new provision as Section 33A to recover the amount as arrears of land revenue.
- (k) Section 46 of the RFCTLAR&R Act, 2013 which provides application of provisions relating to Rehabilitation and Resettlement in case of certain person "other than specified person" which has been defined in the Explanation to Section 46 as Government, Government Company and Trust and a Society aided or controlled by the Government, it is proposed to amend suitably sub-section (1) and clause(b) of the Explanation and consequentially sub-section(5)

thereof so that Rehabilitation and Resettlement benefits are available to land owner in case of purchase through private negotiation even by Government entities also.

(I) Section 87 of the RFCLAR&R Act, 2013 dealing with offence by the Government Department is proposed to be suitably amended by way of substitution so that when offence under this Act is committed by any official of the Government, action will be taken as per section 197 of the Code of Criminal Procedure, 1973.

SMT. PRAMILA MALLICK
Member In Charge

DASHARATHI SATAPATHY
OSD-CUM-SECRETARY
Odisha Legislative Assembly